

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

LISA LAPP,

*Plaintiff,*

v.

UNITED STATES OF AMERICA, *et al.*,  
*Defendants.*

1:23-cv-00248 (MSN/LRV)

**ORDER**

This matter comes before the Court on Plaintiff's Motion for Summary Judgment on Liability against Defendant United States on Counts I and II (Dkt. 81); Defendant United States's Motion to Dismiss for Lack of Jurisdiction in Part (Dkt. 75); Defendant United States's Motion for Summary Judgment (Dkt. 76); Defendant Inouye's Motion for Summary Judgment (Dkt. 73); Defendant United States's Motion for Leave to Conduct Direct Examination of Dr. Michael R. Clark Regarding his August 31, 2023, Supplemental Report (Dkt. 88); and Plaintiff's Motion in Limine (Dkt. 96). Having considered the parties' written briefs and their oral arguments, and for the reasons stated in open court, it is hereby

**ORDERED** that Plaintiff's Motion for Summary Judgment on Liability against Defendant United States on Counts I and II (Dkt. 81) is **DENIED**; and it is further

**ORDERED** that Defendant United States's Motion to Dismiss for Lack of Jurisdiction in Part (Dkt. 75) is **GRANTED**; and it is further

**ORDERED** that Counts V and VI are **DISMISSED WITH PREJUDICE**; and it is further

**ORDERED** that Defendant United States's Motion for Leave to Conduct Direct Examination of Dr. Michael R. Clark Regarding his August 31, 2023 Supplemental Report (Dkt. 88) is **GRANTED IN PART**. The United States's late disclosure of Dr. Clark's Supplemental Report was substantially justified under *S. Sates Rack & Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592 (4th Cir. 2003). The Court will defer ruling, however, on the admissibility of Dr. Clark's opinion in the supplemental report.

The Court will take under advisement Defendant United States's Motion for Summary Judgment (Dkt. 76), Defendant Inouye's Motion for Summary Judgment (Dkt. 73), and Plaintiff's Motion in Limine (Dkt. 96).

Furthermore, it is hereby

**ORDERED** that the parties come to the settlement conference scheduled for November 20, 2023, with representatives that have the full authority to resolve the case.

/s/

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Michael S. Nachmanoff  
United States District Judge

November 14, 2023  
Alexandria, Virginia